

1 HONORABLE RICHARD A. JONES  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 TRITON TECH OF TEXAS, LLC,

10 Plaintiff,

11 v.

12 NINTENDO OF AMERICA, INC., et al.,

13 Defendants.

CASE NO. C13-157RAJ

ORDER

14 The court has reviewed the parties' statements in response to the court's March 1,  
15 2013 order (Dkt. # 138). That order asked the parties to clarify their positions in light of  
16 the possibly inadvertent transfer<sup>1</sup> of Plaintiff's claims against two Defendants (Xsens  
17 North America, Inc. and Hillcrest Laboratories, Inc.) to this court. Since then, Plaintiff  
18 and Xsens have resolved their claims. Plaintiff has no objection to the transfer of its  
19 claims against Hillcrest, and no objection to trying those claims along with its claims  
20 against Defendant Nintendo of America, Inc. Nintendo, on the other hand, has no  
21 objection to the transfer, but contends that the court should sever claims against Hillcrest.  
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23 Hillcrest, for its part, has been silent. In response to the clerk's standard letter  
24 (Dkt. # 127) advising counsel of their obligation to apply for pro hac vice admission (or

25 <sup>1</sup> In its statement, Nintendo provided a transcript of the hearing on the motion to transfer, which  
26 clarifies that the judge presiding in the Eastern District of Texas elected to transfer this case in its  
27 entirety, then allow the transferee court to decide whether to sever any claims. The effect of this  
ruling was to transfer Plaintiff's claims against Hillcrest and Xsens to this court, even though no  
party requested the transfer.

1 notify the court that they do not intend to seek pro hac vice admission), Hillcrest (through  
2 its counsel) has done nothing. The letter advised counsel that they would receive no  
3 further notification of filings in this case until they obtained pro hac vice admission. The  
4 court thus assumes that Hillcrest has not received notice of the March 1 order.

5 Under these circumstances, the court will sever Plaintiff's claims against Hillcrest.  
6 The clerk need not do anything, at this time, to effect the severance. As of now, Hillcrest  
7 has not entered a valid appearance in this court. It will be up to Plaintiff to determine  
8 how to proceed with respect to its claims against Hillcrest. If necessary, the court will  
9 create a separate case for Plaintiff's claims against Hillcrest. If nothing has occurred with  
10 respect to Hillcrest by the time the court enters an order resolving Plaintiff's claims  
11 against Nintendo, the court will dismiss Plaintiff's claims against Hillcrest without  
12 prejudice.

13 If the court chooses to hold a Markman hearing, it will advise Plaintiff and  
14 Nintendo. The court is currently considering their claim construction briefs.

15 As a courtesy, the clerk shall send copies of this order via both email and postal  
16 mail to Hillcrest's most recent counsel of record:

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22 DATED this 25th day of March, 2013.

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26 The Honorable Richard A. Jones  
27 United States District Court Judge  
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